

Application No. : 09/901,240
Filed : 07/09/2001

Remarks:

(3) Status of Claims.

The instant application is a continuation of Serial Number 09/901,240 filed 07/09/2001 comprising claims 1-20.

Responsive to a first Office Action mailed 09/20/2000, claims 1-20 were amended by an Amendment And Response To First Office Action dated 02/18/2003.

Responsive to a Final Office Action mailed 04/24/2003, each of the independent claims (1, 12, and 17) were amended, and also dependent claims 3-9, and 18 were amended by the Reply To Final Office Action filed 07/21/2003.

An Advisory Action mailed 07/29/2003 indicated that the proposed amendment after final would not be entered.

A Request For Continued Examination was filed 08/27/2003 comprising an amendment to each of the independent claims (1, 12, and 17) and to dependent claims 2-11, 13-15, and 18-19.

An Office Action mailed 10/01/2003 rejected claims 1-11 and allowed claims 12-20.

Accordingly, claims 1-11 are the subject of this Reply To Office Action.

(5) Summary of the Invention.

The specification teaches with respect to a real-time strategy ("RTS") that:

At the beginning of the Detailed Description To The Invention, the specifications teaches that:

"Area-based resource collection enables a player to define an area of influence within a map from which the player may collect resources. The definitions of these areas of influence for a given player may be responsive, directly or indirectly, to that player's decisions, actions, orders, and interactions with other players." [Page 6, lines 1-4.]

As is illustrated in Figures 1-3

"In a preferred RTS game embodiment, the game is set in a high-technology universe in which resources are collected primarily through the use of reactors. By building a basic reactor, a player defines an area of influence surrounding the reactor. That is, the actual area of influence and the resulting resource collection potential are dynamically defined in response to a player's action." [Page 8, lines 15-19.]

"Reactors are made available in several different forms, such as basic, directional, focused, and/or mobile. Basic reactors would be the most simple, having a medium sized circular area of influence centered on the reactor. Directional reactors would

have areas of influence in the shape of ellipses not centered on the reactor, so that the player could reach areas not otherwise possible by orienting the reactor toward the desired area. Focused reactors might have a smaller base area but have a bonus to the rate of resources extracted or be able to project their areas of influence to alternate locations. Mobile reactors would be closer in function to units than structures and be able to relocate themselves and thus their area of influence as the player sees fit.

[Page 8, line 28, to page 9, line 5.]

Figures 1 and 2 are drawn to illustrate that the areas are generated directly in response to an action of a player playing the game. A comparison of figures 1 and 2 shows that areas of influence are not pre-drawn, i.e., do not exist, in advance of a player's actions.

"FIG. 2 is a diagram of a game in progress implementing an area-based resource collection illustrating the impact of the actions of a second player. The two players will be referred to as "the light player" whose reactors 111-113 were previously discussed with respect to FIG. 1 and are similarly shown in FIG. 2; and "the dark player" who constructed a reactor 131, defining an area of influence 141 in resource patch 101, and two basic reactors 132 and 133 in the neighboring resource patch 102. These two reactors generate an overlapping areas of influence 142 and 143 for the dark player." [Page 11, line 27, to page 12, line 2.]

It should be appreciated that in this example, the second player has placed a reactor 131 so as to generate an area 141 that overlaps only a portion of a resource area 101, the overlapped portion defining a potential resource collection area for the second player. The generated area 141 also overlaps areas 121, 122, 123 previously generated by the first player.

In further, explaining, the invention, the specification provides detailed examples of how commercially available games such as "Total Annihilation" could be modified to benefit from the advantages of the invention:

"According to the area-based resource methods, TA could be enhanced, for example, as follows. Substitute the existing structures which produce energy by power field generators (PFG). A PFG structure, when produced, would generate an area of influence about itself in a given radius. If no other PFGs are attempting to influence this area, then the PFG produces energy based on the total area under its influence. If the areas controlled by PFGs overlap, then their energy production is reduced responsive to formulas analogous to that of a gravity model." [Page 16, lines 23-29.]

The dynamic real time characteristics of the resource collection methods of the invention enable new principles of operation that offer conceptual advantages over prior art methods. For example:

"Area-based resource collection methods enable affecting resource collection by the overlapping of controlled areas. The overlapping of a player's areas of influence results in diminishing marginal returns. The overlapping of two player's controlled areas results in the sharing of either resource production in the common area, a splitting of the common area into two separately controlled zones, a cancellation of resource production in the contested zone, or simultaneous ownership by both sides.

This allows for extremely varied and dynamic rules that may be applied to resource collection and production. [Page 6, line 30, to page 7, line 6.]

(6) Issues.

Whether claims 1-11 are properly rejected under 35 U.S.C. 102(b) as being anticipated by Cordry et al. U.S. patent 4,687,206 ("Cordry").

(7) Grouping of Claims.

It is believed that each of the claims define the invention with a different degree of specificity and with a different degree of structural or methodological implementation, and that the claims do not stand or fall together. Following the general arguments, attention will be drawn to the limitations that are believed to render the claims separately patentable.

(8) Argument.

(A) Claim 1 is patentable under 35 U.S.C. § 102(b) over Cordry.

Claim 1 calls for:

A method of playing a game, the method comprising the steps of: generating, in direct response to an action of a player playing a game, a first area overlapping only a portion of a resource area, the overlapping portion defining a resource collection area; and enabling an acquisition of resources from the resource collection area.

As above discussed, applicants' Figures 1-3 clearly show that the areas 121, 122, 123, 141, 142, 143, 312, and 316, for example, were not present prior to "an action of a player playing a game". Areas 121, 122, 123, 141, 142, 143, 312, and 316, are generated "in direct response to an action of a player playing a game".

The set of Figures 1 and 2, and Figure 3, clearly illustrate the dynamic manner in which areas are generated and deleted as the game progresses. The Figures and the detailed description also show a generated area, e.g., Figure 2 142, overlapping a portion of a resource area 102. "These two reactors generate an overlapping areas of influence 142 and 143 for the dark player." [Page 12, lines 1-2.]

In its only support of its rejection, the Office Action asserts that Cordry:

"discloses a method of playing a game (col. 1, II. 5-11) and as seen in Figure 1, which comprises the steps of generating, in direct response to an action of a player playing a game, a first area (8) overlapping only a portion of a resource area (col. 4, II. 16-39) and (col. 7, II. 49-68 onto col. 8, II. 1-12), the overlapping portion defining a resource collection area, and enabling an acquisition of resources from the resource collection area (col. 9, II. 35-65)."

Cordry at column 1, lines 5-11 recites that the invention relates to "board games" and "attacks between territories on a map". In Cordry the board game is of conventional manufacturing characteristics comprising the printing of an image. Other than by damage to the board, the image is not, cannot be, and is not intended to be, altered by the playing of the game. As will be detailed below, the conventional board game of Cordry lacks the functional and methodological capability necessary to describe or even suggest the claimed limitations.

Cordry and the Figures clearly show, item (8) is a number on a "world power structure table 16" preprinted on the board and indicating that the world power structure is made up of eight areas, and that one of the areas, North America, consists of (8) territories.

"Game board 10 has a central map portion 12 with a surrounding border 14. Various play action indicia are printed on the playing board, forming a part of border 14, said play action indicia including a world power structure table 16," [Col.

Cordry's column 4, lines 16-39 describes that "each territory has a primary asset", and lists the primary asset associated with each of the territories in North America.

Cordry's column 7, lines 49-68, onto column 8, lines 1-12 only shows the method for distributing territories to players. "All players are allowed to place a playing piece 44, representing one conventional force or army, on each of the territories represented by the cards received." [Column 7, line 67, to column 8, line 1.] Cordry recites that "the active playing pieces are placeable and movable, individually and in combination, on the game board for indicating respective control of the territories on the map". [Column 2, lines 35-38.] Obviously, the movement of the pieces do not change the printed image on the board. Thus, in Cordry an action of a player playing the game cannot and does generate the structure, the areas, and/or the territorial subdivisions.

Thus, contrary to the Office Action's assertion, Cordry's item (8) (North America's territories), Cordry's column 4, lines 16-39 (each territory has a primary asset)", and Cordry's column 7, lines 49-68, onto column 8, lines 1-12 (method for distributing territories to players) do not describe, anticipate, or render obvious the "*generating, in direct response to an action of a player playing a game, a first area*" limitation of claim 1. The fact is that Cordry graphically and explicitly teaches away from "*generating, in direct response to an action of a player playing a game, a first area*" as is being claimed and shown in applicants' Figures 1-3.

Claim 1 is further patentably distinguished from Cordry in that the claim comprises the

additional limitation of “*generating, in direct response to an action of a player playing a game, a first area overlapping only a portion of a resource area, the overlapping portion defining a resource collection area*”. [Emphasis added.] Cordry claims and explicitly teaches a board having a “map showing a plurality of geographical areas divided into geographical subdivisions”. [Column 4, lines 5-7, emphasis added.] The areas and the geographical subdivisions are preprinted on the board. By division, and as illustrated, in Cordry none of the areas or subdivisions overlap. Thus, contrary to the Office Action’s assertion, Cordry’s item (8) (North America’s territories), Cordry’s column 4, lines 16-39 (each territory has a primary asset)”, and Cordry’s column 7, lines 49-68, onto column 8, lines 1-12 (method for distributing territories to players) do not describe, anticipate, or render obvious the “*a first area overlapping only a portion of a resource area*” limitation of claim 1.

Cordry at column 9, lines 35-65 describes the “Attack Mode” and clearly indicates that “Once the forces on the attacked territory are totally removed, the territory then comes under the control of the attacking player” [Column 9, lines 52-11.] Contrary to the Office Action’s assertion, the concept of an area overlapping only a portion of a resource area is absent in Cordry. The cited column 9, lines 35-65, of Cordry does not describe, anticipate, or render obvious “*the overlapping portion defining a resource collection area*” limitation.

Obviously, after three office actions, and the expenditure of substantial resources to have an attorney meet with the Examiner, neither applicants nor applicants’ attorney know why claims 1-11 were and are being rejected as being anticipated by Cordry. The problem is that the office actions implement a practice of associating citations with the claim language without providing an explanation of how the citations actually describe or anticipate the subject matter being claimed. Applicants have been left to attempt to divine the reasoning for the rejection. Has the Examiner failed to appreciate that at least the current Office Action should have provided an explanation of how the citations describe the claimed elements?

For example, how does item (8) of Figure 1, column 4, lines 16-39, and column 7, lines 49-68, onto column 8, lines 1-12 of Cordry describe “*generating, in direct response to an action of a player playing a game, a first area overlapping only a portion of a resource area*”?

How does column 9, lines 35-65, of Cordry describe “*the overlapping portion defining a resource collection area; and enabling an acquisition of resources from the resource collection area*”?

Further, Webster's Encyclopedic Unabridged Dictionary of the English Language, New Deluxe Edition, does not provide a definition for the term "generating" and for the term "overlapping" that supports the Office Action rejection of claim 1 as being anticipated by Cordry. Thus, what applicable definition for the term "generating" and for the term "overlapping" does the Office Action rely upon for its rejection?

Referring to applicants' Figure 2, claim 1 calls for at least three distinct area types: "generating, in direct response to an action of a player playing a game, a first area [1] (123) overlapping only a portion of a resource area [2] (101), the overlapping portion defining a resource collection area [3] (the portion of 123 overlapping 101); and enabling an acquisition of resources from the resource collection area. Cordry does not describe, anticipate, or render obvious each of the three distinct area types.

Further, Cordry does not describe, anticipate, or render obvious the limitations individually and as claim 1 particularly synergistically integrates.

For these reasons, applicants traverse the rejection of claim 1, and respectfully submit that the rejection of claim 1 under 35 U.S.C. §102(b) as being anticipated by Cordry is unwarranted and should be reversed.

(B) Claim 2 is patentable under 35 U.S.C. § 102(b) over Cordry.

The Office Action rendered moot applicant's previous arguments "in view of the new ground(s) of rejection." However, the Office Action failed to provide any citation, support, or explanation for the current rejection of dependent claim 2.

The fact is that, on careful study, the knowledgeable reader will appreciate that in Cordry, while territories are illustrated, the game play is point based. That is, the location from which resources may be collected is a point in the map, and is not an area.

The patentability of claim 2 is not dependent on this technical issue. Where does Cordry describe generating a volume overlapping only a portion of a resource area? The fact is that Cordry does not describe the limitation of defining a resource collection area by generating a volume overlapping only a portion of a resource area.

For these reasons and the reasons provided with respect to claim 1, applicants traverse the rejection of dependent claim 2, and respectfully submit that the rejection of claim 2 under 35 U.S.C. §102(b) as being anticipated by Cordry is unwarranted and should be reversed.

(C) Claim 3 is patentable under 35 U.S.C. § 102(b) over Cordry.

Referring to applicants' Figure 2, in the context of independent claim 1, dependent claim 3 calls for at least four distinct area types: "*generating, in direct response to an action of a player playing a game, a first area [1] (123) overlapping only a portion of a resource area [2] (101), the overlapping portion defining a resource collection area [3] (the portion of 123 overlapping 101); enabling an acquisition of resources from the resource collection area; and generating a second area (141) overlapping at least a portion of the resource collection area [4] (the portion of 123 overlapping 101)*". In this case, resulting in a portion of the second area 141 that overlaps the portion of a first area 123 that overlaps the resource area 101. The addition of this limitation further serves to distinguish over Cordry the dynamic generation and interplay of areas and resource areas.

Contrary to the Office Action assertion, Cordry's column 4, lines 30-38 as seen in Figure 1, does not anticipate or render obvious dependent claim 3. Column 4, lines 30-38 of Cordry only show territorial subdivisions none of which are overlapping or overlapped. Therefore, since Cordry fails to describe, anticipate, or render obvious any overlapping, there is no overlapping portion defining a resource collection area in Cordry. Since there is no generating of either a first or a second area, nothing is shown that could overlap a resource collection area which, in the first place, is not described in Cordry.

For these reasons and the reasons provided with respect to claim 1, applicants traverse the rejection of dependent claim 3, and respectfully submit that the rejection of claim 3 under 35 U.S.C. §102(b) as being anticipated by Cordry is unwarranted and should be reversed.

(D) Claim 4 is patentable under 35 U.S.C. § 102(b) over Cordry.

Dependent claim 4 adds to the limitations of claim 3, the additional limitation of: "*wherein the first area and the second area differ with respect to a degree of influence over the resources that are available from the overlapping portion of the resource collection area.*"

Contrary to the Office Action assertion, Cordry's column 4, lines 16-39 as seen in Figure 1, does not anticipate or render obvious dependent claim 4. Column 4, lines 16-38 relate to the "primary assets" associated with each territory. Nothing in the citation or Cordry describes, anticipates or renders obvious the additional limitation of dependent claim 4.

Where does Cordry describe "*degree of influence*"? Where does Cordry describe "*from the overlapping portion of the resource collection area*"? Where does Cordry describe "*wherein the first area and the second area differ with respect to a degree of influence over the resources that*

are available from the overlapping portion of the resource collection area”? Where does Cordry describe “generating a second area overlapping at least a portion of the resource collection area; and wherein the first area and the second area differ with respect to a degree of influence over the resources that are available from the overlapping portion of the resource collection area”?

Finally, where does Cordry describe “A method of playing a game, the method comprising the steps of: generating, in direct response to an action of a player playing a game, a first area overlapping only a portion of a resource area, the overlapping portion defining a resource collection area; enabling an acquisition of resources from the resource collection area; and generating a second area overlapping at least a portion of the resource collection area; and wherein the first area and the second area differ with respect to a degree of influence over the resources that are available from the overlapping portion of the resource collection area”?

For these reasons and the reasons provided with respect to claims 1 and 3, applicants traverse the rejection of dependent claim 4, and respectfully submit that the rejection of claim 4 under 35 U.S.C. §102(b) as being anticipated by Cordry is unwarranted and should be reversed.

(E) Claim 5 is patentable under 35 U.S.C. § 102(b) over Cordry.

While the Office Action rejected dependent claim 5 under 35 U.S.C. § 102 as being anticipated by Cordry, the Office Action failed to provide any citation, explanation, reference, or support.

In the context of claim 1, how does Cordry anticipate “*wherein the resources that are available is further responsive to a means for the acquisition of resources*”, as dependent claim 5 calls for? No such limitation is described, anticipated, or rendered obvious by Cordry.

For these reasons and the reasons provided with respect to claim 1, applicants traverse the rejection of dependent claim 5, and respectfully submit that the rejection of claim 5 under 35 U.S.C. §102(b) as being anticipated by Cordry is unwarranted and should be reversed.

(F) Claim 6 is patentable under 35 U.S.C. § 102(b) over Cordry.

While the Office Action rejected dependent claim 6 under 35 U.S.C. § 102 as being anticipated by Cordry, the Office Action failed to provide any citation, explanation, reference, or support.

In the context of claim 1, how does Cordry anticipate “*wherein the resources that are available is further responsive to a distance to a means for the acquisition of resources*”, as dependent claim 6 calls for? No such limitation is described, anticipated, or rendered obvious by

Cordry.

For these reasons and the reasons provided with respect to claim 1, applicants traverse the rejection of dependent claim 6, and respectfully submit that the rejection of claim 6 under 35 U.S.C. §102(b) as being anticipated by Cordry is unwarranted and should be reversed.

(G) Claim 7 is patentable under 35 U.S.C. § 102(b) over Cordry.

While the Office Action rejected dependent claim 7 under 35 U.S.C. § 102 as being anticipated by Cordry, the Office Action failed to provide any citation, explanation, reference, or support.

In the context of claim 1, how does Cordry anticipate "*the resources that are available is further responsive to a distance to, and a magnitude of, a means for the acquisition of resources*", as dependent claim 7 calls for? No such limitation is described, anticipated, or rendered obvious by Cordry.

For these reasons and the reasons provided with respect to claim 1, applicants traverse the rejection of dependent claim 7, and respectfully submit that the rejection of claim 7 under 35 U.S.C. §102(b) as being anticipated by Cordry is unwarranted and should be reversed.

(H) Claim 8 is patentable under 35 U.S.C. § 102(b) over Cordry.

While the Office Action rejected dependent claim 8 under 35 U.S.C. § 102 as being anticipated by Cordry, the Office Action failed to provide any citation, explanation, reference, or support.

In the context of claim 1, how does Cordry anticipate "*generating a second area overlapping at least a portion of the resource collection area; the overlapping portion having an effect on a rate at which resources are acquired from the overlapping portion of the resource collection area*", as dependent claim 8 calls for? No such limitation is described, anticipated, or rendered obvious by Cordry.

For these reasons and the reasons provided with respect to claim 1, applicants traverse the rejection of dependent claim 8, and respectfully submit that the rejection of claim 8 under 35 U.S.C. §102(b) as being anticipated by Cordry is unwarranted and should be reversed.

(I) Claim 9 is patentable under 35 U.S.C. § 102(b) over Cordry.

While the Office Action rejected dependent claim 9 under 35 U.S.C. § 102 as being anticipated by Cordry, the Office Action failed to provide any citation, explanation, reference, or support.

In the context of claim 1, how does Cordry anticipate "*generating a second area overlapping at least a portion of the resource collection area and having an effect on a total quantity of resources that acquired from the overlapping portion of the resource collection area*", as dependent claim 9 calls for? No such limitation is described, anticipated, or rendered obvious by Cordry.

For these reasons and the reasons provided with respect to claim 1, applicants traverse the rejection of dependent claim 9, and respectfully submit that the rejection of claim 9 under 35 U.S.C. §102(b) as being anticipated by Cordry is unwarranted and should be reversed.

(J) Claim 10 is patentable under 35 U.S.C. § 102(b) over Cordry.

While the Office Action rejected dependent claim 10 under 35 U.S.C. § 102 as being anticipated by Cordry, the Office Action failed to provide any citation, explanation, reference, or support.

In the context of claim 1, how does Cordry anticipate "*wherein the first area covers at least a portion of one of a plurality of resource areas having different densities of resources*", as dependent claim 10 calls for? No such limitation is described, anticipated, or rendered obvious by Cordry.

For these reasons and the reasons provided with respect to claim 1, applicants traverse the rejection of dependent claim 10, and respectfully submit that the rejection of claim 10 under 35 U.S.C. §102(b) as being anticipated by Cordry is unwarranted and should be reversed.

(K) Claim 11 is patentable under 35 U.S.C. § 102(b) over Cordry.

While the Office Action rejected dependent claim 11 under 35 U.S.C. § 102 as being anticipated by Cordry, the Office Action failed to provide any citation, explanation, reference, or support.

In the context of claim 1, how does Cordry anticipate "*wherein the first area covers at least a portion of one of a plurality of resource areas having qualitatively different resources*", as dependent claim 11 calls for? No such limitation is described, anticipated, or rendered obvious by Cordry.

For these reasons and the reasons provided with respect to claim 1, applicants traverse the rejection of dependent claim 11, and respectfully submit that the rejection of claim 11 under 35 U.S.C. §102(b) as being anticipated by Cordry is unwarranted and should be reversed.

Conclusion

Thus, as in the case of claims 12-20, each of the rejected claims 1-11 also recite useful, novel, nonobvious, and enabled inventions, clearly described in applicants' specification, and that offer advantages not anticipated or rendered obvious by Cordry. Therefore, it is believed that the outstanding claims are in condition for allowance. Accordingly, favorable reconsideration and allowance of these claims are respectfully solicited.

By the above reply, applicants have attempted to diligently respond to each of the principal issues raised by the Office Action. If a particular assertion or remark in the Office Action is deemed not to be directly or indirectly addressed, it should not be interpreted as indicating agreement with such an assertion or remark. For purposes of presentation, the remarks have been provided in as simple a manner as possible, and do not embody the richness or breadth of the specification of the present inventions.

Respectfully submitted,



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